

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DAVID P. FOLEY,

Plaintiff,

v.

Case No. 21-CV-280

SCOTT PAUL, *et al.*,

Defendants.

ORDER

On November 29, 2021, *pro se* plaintiff David P. Foley filed a motion to compel surveillance videos for several dates. (ECF No. 34.) He states he “has made attempts through discovery or writing the FLCI [Fox Lake Correctional Institution] Legal Liaison directly” for the videos he wants. (*Id.* at 1.) In response the defendants state that they did not receive any discovery requests from Foley much less a request for specific surveillance videos. (ECF No. 39 at 1.) The defendants also state that Foley did not comply with Federal Rule of Civil Procedure 37(a)(1), requiring that he meet and confer with opposing counsel in an attempt to resolve the discovery dispute before filing a motion to compel. (*Id.* at 2.) Foley did not reply.

The court will deny Foley’s motion. The discovery deadline is currently stayed pending resolution of the defendants’ motion for summary judgment on the grounds that Foley failed to exhaust his administrative remedies before filing this lawsuit.

Should Foley's case survive summary judgment on exhaustion grounds, the court will issue an amended scheduling order resetting the deadline for discovery. The order will also contain information on the applicable rules to conduct discovery. Additionally, Foley received a guide entitled "Answers to Prisoner Litigants' Common Questions," which contains information about how to conduct discovery. Foley should refer to that guidance and use the discovery process to obtain the videos he wants from the defendants. Again, Foley should wait until the court resolves the pending motion for summary judgment on exhaustion grounds before serving these discovery requests.

IT IS THEREFORE ORDERED that Foley's motion to compel (ECF No. 34) is **DENIED**.

Dated in Milwaukee, Wisconsin this 24th day of January, 2022.

BY THE COURT

A handwritten signature in black ink, appearing to read "William E. Duffin". The signature is fluid and cursive, with a horizontal line drawn through it.

WILLIAM E. DUFFIN
United States Magistrate Judge